



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Miss Hazel H. Beckham
Executive Secretary-Director
State Commission for the Blind
Austin, Texas

Dear Madam:

Opinion No. 0-3615
Re: Authority of department head
to pay salary less than that
set forth in the Departmental
Appropriation Bill, and au-
thority to use savings thus
effected.

Your letter of May 24, 1941, requests the opinion
of this department upon the following questions:

1. Does the State Commission for the Blind have the authority to pay an employee less than the salary designated by the Legislature for a specific position where there are several itemizations for such position at the same salary and where in the opinion of this Commission persons filling these positions are qualified for such positions but some such persons are better qualified than others.
2. If the Commission does have the authority to pay less than the salary designated in the appropriation bill, would the difference in the amount paid and the amount appropriated for this purpose be transferable, or would it be permissible to use any balance for a part-time employee for like work.

The general rider appended to Senate Bill 427, Acts of the Forty-Sixth Legislature, the Departmental Appropriation Bill, provides in part as follows:

" * * * Provided, however, that nothing herein shall prevent any department head from

Miss Hazel H. Beckham, Page 2

paying less than the maximum amount set forth herein for any salaried position."

This is specific authority to the various department heads to pay particular employees less than the maximum amount itemized for the particular salaried position.

An essential function of an appropriation is to set apart a certain sum of money to be used for a certain purpose and for no other purpose. It follows that the salary appropriated for one purpose may not be used for another purpose in the absence of express authority from the Legislature so to do. There is no authority conferred upon the department heads by the Legislature in Senate Bill 427 to transfer appropriations, consequently any saving effected in paying less than the maximum amount of salary appropriated for a particular position may not be transferred to another appropriation or used for another purpose than that for which it was appropriated. See our opinion No. 0-3068, copy of which is enclosed herewith.

It was held in our opinion No. 0-1006 that a salary item listed in Senate Bill 427, Acts of the Forty-Sixth Legislature, cannot be broken down into component parts and converted into an appropriation for part-time or half-time employment. A copy of this opinion is enclosed herewith. Since we find no express authority conferred upon the Commission for the Blind by Senate Bill 427 to break down a salary item listed for a particular position and use a portion of such item of appropriation for part-time or half-time employment, you are advised that any savings effected by paying less than the maximum amount itemized for a particular position cannot be used by your department to pay a part-time employee for like work.

APPROVED JUN 10 1941

Grover R. Bell
FIRST ASSISTANT
ATTORNEY GENERAL

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

R. W. Fairchild

R. W. Fairchild
Assistant

RWF:ej
Encls.

APPROVED
OPINION
COMMITTEE